United Nations A/58/262

General Assembly

Distr.: General
8 August 2003

Original: English

Fifty-eighth session
Item 26 of the provisional agenda*
The situation in Central America: progress in fashioning a region of peace, freedom, democracy and development

United Nations Verification Mission in Guatemala: renewal of mandate

Report of the Secretary-General

Summary

The present report summarizes developments relating to the implementation of Guatemala's 1996 peace agreements. It describes a complex and precarious political context that has slowed the implementation of agreements reached between the Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca. General elections are scheduled for November 2003, and a new Government will take over in January 2004. To contribute to a smooth transition, the Secretary-General is recommending a renewal of the mandate of the United Nations Verification Mission in Guatemala from 1 January to 31 December 2004.

* A/58/150.

03-46568 (E) 080903

I. Introduction

1. The present report is submitted pursuant to General Assembly resolution 57/161 of 16 December 2002, by which the Assembly authorized the renewal of the mandate of the United Nations Verification Mission in Guatemala (MINUGUA) from 1 January to 31 December 2003 and requested me to submit an updated report to the Assembly at its fifty-eighth session, together with recommendations regarding the best way to accompany Guatemala in its peace-building process beyond 31 December 2003.

2. In view of the fact that a new Government will assume office in January 2004, President Alfonso Portillo requested in September 2002 that the MINUGUA mandate be extended until the end of 2004. In the light of that request, I initiated consultations with interested Member States.

3. The present report provides a brief political overview (a detailed account may be found in my eighth verification report, document A/58/267). It also reports progress in the implementation of the Mission's transition strategy in preparation for its departure and towards the main objective of strengthening national capacities to implement the peace agenda. Lastly, it presents a plan for restructuring the Mission in 2004, as the final stage in the phase-out process leading to the closure of MINUGUA.

4. The Government's request for the extension of the MINUGUA mandate has been supported by the Group of Friends of the Guatemalan peace process (Colombia, Mexico, Norway, Spain, the United States of America and Venezuela) and other Member States. Member States emphasized that MINUGUA could be a stabilizing factor in the period of uncertainty that generally accompanies the transition to a new Government. It was felt that in 2004 the Mission should encourage continued implementation of the agreements by the new Government authorities while continuing international verification and reporting, especially on human rights and demilitarization.

Political context

5. The implementation of the peace accords in the past year fell short of the expectations generated at the outset of the period and were insufficient to inject new momentum into the peace process. The Mission verified progress in specific areas, such as the approval of a reparations programme for the victims of human rights violations committed during the armed conflict, the partial redeployment of the military in conformity with peacetime needs and the passage of several pieces of legislation that penalize discrimination, stipulate that public services should be provided in indigenous languages, broaden the protection of the rights of children and create civilian service as an alternative to mandatory military service. Yet too many governmental initiatives were inconclusive or limited in relation to the magnitude of the problems they sought to address. Advances tended to be overshadowed in the public eye, moreover, by negative developments, such as the worsening public security situation, persistent corruption, obstacles in the fight against impunity and an ongoing climate of intimidation against justice officials and human rights defenders.

6. Consolidating the vision of the peace accords will require greater political will, the involvement of all sectors of society and the continued engagement of the international community. Still, the critical evaluation of the last period should not be cause for pessimism. Nor should we lose sight of the broader gains of the Guatemalan peace process. Nearly seven years after the signing of the Agreement on a Firm and Lasting Peace, it is no small achievement that fighting has not resumed, that unprecedented political space now exists for groups in society that were traditionally excluded and that long-term reform processes have been launched to strengthen Guatemala's democracy and eradicate the many root causes of the conflict. With elections approaching and a new Administration to take office next year, the challenge ahead will be to consolidate the gains to date and to deepen the still incipient reform process.

7. National elections will be held in November in an increasingly tense and polarized atmosphere. At stake are the presidency, all 158 congressional seats and all 331 municipal governments. A few violent incidents were reported at the start of the campaign period, and the build-up to the elections is generating tensions at the local level, particularly in hotly contested municipal races. Electoral authorities have come under increased pressure, especially after a controversial ruling in July by the nation's highest court permitting the presidential candidacy of retired General Efraín Ríos Montt. The high court had previously banned his participation on constitutional grounds. Its decision served to increase tension in an already complex electoral panorama, marked by the splintering of parties and shifting alliances.

8. The country's new leaders will face enormous challenges to overcome disunity and provide coherent direction forward. There will be changes at every level of government, both national and local, and, as is customary, there is apt to be enormous staff turnover, even at the technical level in many State institutions. It will be no small task to ensure the continuity of important institutions and programmes that have been developed as part of the peace agreements. The new Government will have a great responsibility in this regard, but civil society and the private sector will also need to play a forceful role and lend their creativity to the building of a stronger and more effective consensus around the peace agenda. The support of the international community and of the United Nations, in particular, will continue to be crucial as new authorities take over and tackle their new functions.

II. The transition process

9. During 2003, MINUGUA has continued to carry out its mandate to verify compliance with the peace agreements, offer good offices, provide technical assistance and inform the public on its activities and the results of its verification, as laid out in my report dated 1 November 2002 (A/57/584). This has been done within the framework of a general transition strategy designed to minimize the potential impact of the Mission's departure from Guatemala and to contribute to the long-term sustainability of the peace process.

10. Even with continued advances in the implementation of the peace agreements, it is foreseeable that many aspects will remain only partially implemented at the end of the MINUGUA mandate, especially those requiring structural change or significant, ongoing budgetary commitments by the Government.

11. MINUGUA has implemented a transition strategy based on the core notion that future advances and the long-term success of the Guatemalan peace process depends on the capacities and renewed commitment to the peace agreements of Guatemalan institutions, both of the State and of civil society. In October 2002 the Mission defined priority partners for the transition, and throughout 2003 much of the Mission's work, both at headquarters and at the regional offices, has focused on building the capacity of these partners to provide oversight and to promote and monitor issues defined in the accords. A large part of this work will conclude in 2003 or early 2004, although follow-on assistance will be provided in a much more reduced and selective manner. In 2004, the Mission will seek to have a greater political impact — through good offices and public information — to ensure that central Government and local authorities understand and appropriate the peace agenda.

12. As the Mission's most similar State counterpart, the Office of the Human Rights Ombudsman has been given special priority. When MINUGUA leaves, only that Office will have the national mandate and territorial coverage to serve the population by investigating complaints and calling for State action regarding human rights problems. In addition, on the basis of a broad interpretation of its legal framework, the Ombudsman has proposed a strong role for his Office in monitoring peace accord implementation after MINUGUA closes. Support for the Office of the Human Rights Ombudsman, pursuant to a memorandum of understanding signed in October 2002, has involved all of the Mission's substantive units and field offices. Major advances accomplished in 2003 with the Office of the Human Rights Ombudsman include country-wide, staff training on a range of human rights monitoring and other peace issues, increasing joint verification and technical assistance to create computerized information systems.

13. The Mission's work with civil society actors aims to complement efforts with the Office of the Human Rights Ombudsman and other key State institutions, especially on issues and in regions where the responsible State entities remain weak. This has involved training local human rights organizations for receiving complaints and assisting victims; providing technical criteria and information on budget and fiscal policy to specialists at research centres in the framework of the peace agenda; and providing technical support to civil society groups launching pilot programmes monitoring police and military activity in provincial areas. Technical assistance has also been provided to local indigenous and women's organizations working in the decentralized structures for participatory planning and oversight, known as Development Councils.

14. MINUGUA continues to serve as an observer on the Commission to Follow up the Implementation of the Peace Agreements, participating in discussions to revamp the peace institutions (including the Commission itself) as one step in reinvigorating the peace process. Currently, the Commission has little technical capacity of its own and depends heavily on the Mission for information and analysis. With significant reform and sufficient resources, however, the Commission could provide general monitoring and oversight of the pending peace agenda and serve as a national advocate for the peace agreements. The Mission will continue to work in this direction throughout 2004.

15. The Mission has no illusions that the problems of the country's weak institutions — both of the State and of civil society — can be solved in the short

term, or that its efforts to strengthen capacities of key partners can, by themselves, lead to a revitalized peace process. Nonetheless, concerted efforts by Mission staff on specific issues with selected institutions — both at the Guatemala City headquarters and at field offices — are helping to consolidate skills.

16. In addition to transition efforts with national institutions and organizations, complementary measures have been advanced to ensure specific follow-on by the specialized agencies, funds and programmes of the United Nations system, as well as by members of the international community. This work will intensify in 2004, in preparation for the Mission's departure.

17. It is envisaged that the Office of the United Nations High Commissioner for Human Rights (OHCHR) will upgrade its current technical assistance project in Guatemala, with a fuller mandate for human rights observation and enhanced technical assistance. The Mission has worked closely during 2003 with the existing OHCHR project, both to implement a joint work plan on indigenous peoples' rights, as well as to assist in developing plans for the future work of OHCHR in Guatemala; this collaboration will deepen in 2004.

18. The Mission is working with the United Nations country team to develop the new United Nations Development Assistance Framework and to build greater capacity for monitoring and reporting on the implementation of the pending socio-economic commitments contained in the peace agreements. In 2003 the Mission coordinated efforts to produce a supplement to the annual *Human Development Report* that integrates information from several United Nations programmes and agencies and presents a joint assessment of the status of the commitments. In 2004 MINUGUA will provide only limited technical support, and in coming years the Resident Coordinator will continue the effort to ensure United Nations reporting on these issues.

19. Trust Fund projects on a range of socio-economic, justice, public security and defence issues have been completed, and follow-up needs and lessons learned have been presented to the United Nations Development Programme (UNDP), which has taken measures to provide greater support and technical assistance to national institutions in these areas. In addition, MINUGUA headquarters staff are working with the donor community and cooperation agencies to identify priorities that emerge as a result of the Mission's phase-out. This work will be strengthened in 2004 to encourage continued financial support in these areas. In this same vein, the Mission's field offices will also collaborate with the specialized agencies, funds and programmes of the United Nations system and other international cooperation agencies by providing contacts and by briefing them on the political situation in the region, the status of peace accord implementation and other international cooperation projects at the departmental, municipal or regional level.

20. The Mission works closely with the Dialogue Group — composed of major bilateral donors and multilateral development banks — which has projected a unified international voice in support of the implementation of the pending commitments contained in the peace agreements. MINUGUA will continue to provide information and analysis to the Dialogue Group, given the Group's key role in facilitating direct communication between the international community and Guatemalan political actors on the peace agenda and its potential for channelling cooperation efforts towards consolidation of the peace process after MINUGUA's departure.

21. The National Transition Volunteers programme is another important component of the transition strategy. Beginning in the third quarter of 2003, up to 60 Guatemalans will eventually be brought into MINUGUA, at its headquarters and regional offices, as United Nations Volunteers, with priority being given to indigenous people and to those committed to working in provincial areas. They will receive intensive training, both formal and on-the-job, in the methodologies developed over the years by the Mission in the fulfilment of its mandate. The programme, in effect, will integrate these Guatemalan United Nations Volunteers, as soon as they are sufficiently trained, into the Mission's substantive activities, including its verification work. The Mission will seek formal agreements with the Ombudsman, key human rights and indigenous organizations and other appropriate institutions with the aim of facilitating the volunteers' employment once the Mission has ended. Financed with some of the funds remaining in the MINUGUA Trust Fund, the programme will contribute to strengthening national capacities by providing a new generation of professionals with the skills to advance the peace agenda in the post-MINUGUA period.

III. Proposed structure and staffing of the Mission in 2004

22. In 2004, in accordance with its mandate, MINUGUA will continue to verify compliance with the peace agreements, offer good offices, provide technical assistance and inform the public about its activities and the results of its verification. This will be done, however, with sharply defined priorities, given both budgetary constraints and advances in the transition process in 2003.

23. Whereas in 2003 the Mission has verified four broad areas of the peace agreements (human rights; demilitarization and the strengthening of civilian power; indigenous rights; and socio-economic aspects), in 2004 only the first two will be subject to verification. Human rights verification will be strictly limited to high-profile and high-impact cases, and whenever possible, will be done in close cooperation with the Office of the Human Rights Ombudsman. Verification of demilitarization and the strengthening of civilian power will focus on strategic aspects of the role of the National Civilian Police, as well as doctrinal, educational, deployment and budgetary reform of the military. Work with new Government authorities will be prioritized to encourage continued implementation of the peace agenda. Technical assistance will be focused on reinforcing key capacity-building efforts with transition partners begun in 2003, providing in-house training of Guatemalan United Nations Volunteers and continuing support for legislative initiatives through the Programme of Institutional Assistance for Legal Reform. The Office of the Spokesperson will continue to support all of these aspects, reinforcing especially the work with the new Government authorities.

24. The Mission will aim to carry out these priorities with a greatly reduced budget. The number of international staff is slated to drop by 43 per cent by the end of 2003, while total staff cuts will reach 56 per cent. The international United Nations Volunteers programme has been almost entirely closed out, as numbers dropped by 93 per cent in the same period. Consistent with the phase-out process, Mission headquarters will be pared down, relocated and restructured, beginning in late 2003, to permit savings and reflect lower staffing levels, while striving to retain sufficient strength to cover priorities. Three subregional offices (Cantabal, Coatepeque and Nebaj) will be closed, while the six regional offices (Cobán,

Guatemala, Petén, Quetzaltenango, Quiché and Zacapa) and two other subregional offices (Huehuetenango and Sololá) will be maintained. Additional territorial coverage will be provided, as needed, by visits from the closest regional office. This will allow the Mission to reinforce strategic aspects of its capacity-building efforts with national and local actors for the transition, work with newly named authorities at all levels on the peace agenda, maintain nationwide coverage and retain some verification capacity. In addition, given that the country's institutional weaknesses continue to be most pronounced in the countryside, Mission presence in the field through the end of 2004 will provide a safety net.

25. Mission headquarters will be staffed to ensure capacity for the work with new authorities of the central Government on the peace agenda, to concentrate reporting capacity and to increase the level of political information provided to United Nations Headquarters. This will be done by strengthening the Office of the Political Adviser, which will advise the Special Representative of the Secretary-General on overall Mission policy, coordinate the Mission's analysis and reporting directed to United Nations Headquarters and generate strategies for working with new Government authorities, the Commission to Follow up the Implementation of the Peace Agreements and other peace institutions. An economic and social policy adviser will ensure follow-up on key budget and fiscal issues, provide technical support to the United Nations country team and thematic working groups and serve as the Mission's focal point for the UNDAF process.

26. The Office of the Spokesperson, with fewer staff, will continue to play a key role in publicizing peace-process achievements and information on the Mission's transition and withdrawal. The Transition Unit, while smaller, will continue to provide strategic advice and monitor benchmarks in the transition process, coordinate follow-on with the Office of the Human Rights Ombudsman and work with the country team and bilateral cooperation agencies to ensure political, technical and financial support for national transition partners.

27. Reflecting MINUGUA priorities, Mission headquarters will retain two thematic Advisory Units in 2004 — on Human Rights and Demilitarization and Strengthening Civilian Power. The Advisory Unit on Human Rights will focus on four areas: coordination between headquarters and field verification of serious human rights violations, in conjunction with the Office of the Human Rights Ombudsman; working with the new central Government authorities on legislative and reform recommendations on human rights and justice issues; supporting OHCHR; and concluding transition programmes with the Office of the Human Rights Ombudsman and human rights non-governmental organizations.

28. The Advisory Unit on Demilitarization and Strengthening Civilian Power will work with the new Government authorities on the institutional and legislative aspects of the demilitarization process; support civil society organizations that work on public security, intelligence and defence issues; and, with UNDP, reinforce the capacities of the National Civilian Police, in follow-up to work previously supported by the MINUGUA Trust Fund.

29. The Advisory Units on Indigenous Rights and on Economic Policy and Rural Development will be phased out in 2003, as they complete transition plans and follow-up mechanisms are put into place. In large measure, technical assistance and the good offices role concerning indigenous rights will be absorbed by OHCHR. The Advisory Unit on Economic Policy and Rural Development has strengthened the

capacities of State and civil society organizations in 2003 to advance key policy and legislative initiatives and build oversight capacities. In addition, UNDP will provide follow-on technical assistance on several issues, and the United Nations country team will provide annual monitoring on pending socio-economic commitments. The Mission History and Lessons Learned Unit finished its work in September 2003.

30. The work of MINUGUA's field offices will centre on the priority areas of human rights and demilitarization. With the Office of the Human Rights Ombudsman, they will verify high-impact human rights cases, monitor, analyse and report on developments in the regions related to the peace process; provide information and analysis on the peace agenda to newly elected local authorities and use good offices to facilitate relations between new local authorities and civil society organizations; provide limited follow-up for capacity-building with priority transition partners; and project the Mission's messages regarding the importance of the continuity of the peace process at the regional level. Maintaining territorial coverage permits continuation of the only reliable, countrywide source of information, which has served Guatemalan society and the international community since the Mission's establishment. This will be vital in the phase-out and transition period as the new Government assumes its functions.

31. Each regional office will be headed by an international professional with extensive experience in the region, and its staff will include either an international United Nations Volunteer or a police observer. Subregional offices will also be led by experienced international professionals. All field offices will be staffed by Guatemalans recruited as part of the National Transition Volunteers programme. These volunteers will partially compensate for the reduction of other international personnel currently in the field. They will be closely supervised by the remaining international staff as they are integrated into the Mission's verification activities and other substantive work.

32. By the end of 2003, the Mission's once large portfolio of technical assistance projects supported by its Trust Fund will be closed, and it is expected that in 2004 only two initiatives will still be in operation with Trust Fund moneys. MINUGUA is seeking support to extend the Programme of Institutional Assistance for Legal Reform into 2004, as its extensive contacts and knowledge of peace accord legislative initiatives will provide significant support to the Mission's political focus next year, especially work in the new Congress. In addition, it is expected that the National Transition Volunteers programme will be financed by the Trust Fund and implemented directly by the Mission.

IV. Observations

33. The year 2004 will be decisive for the future of the peace process in Guatemala. A new Government will take office, the third since the Agreement on a Firm and Lasting Peace was signed on 29 December 1996. It will face the weighty responsibilities of advancing the broad agenda for democratization laid out in the peace agreements. These future responsibilities make it all the more crucial that the 2003 elections take place in a climate of tolerance, non-violence and transparency, with absolute regard for the fairness and legality of the proceedings. It is my fervent hope that all of the newly elected public officials will act on the commitments made

by the political parties in July 2003, under the auspices of the Organization of American States, to assume the peace agreements as accords of State.

34. I am concerned that progress in the implementation of the peace agreements has repeatedly fallen short of expectations and of the urgent needs of the Guatemalan people. The profound inequalities; entrenched impunity; ongoing polarization; continued threats against justice workers, human rights defenders, journalists and other activists; and persisting weaknesses in the justice system and public security institutions make it difficult for many in society to perceive the benefits of peace in their everyday lives. The new Government, together with civil society and the private sector, must work with increased energy and commitment to break out of these patterns and lead the country into a new period characterized by the rule of law and full human development.

35. In preparation for the end of its mandate, MINUGUA focused a large part of its efforts and resources in 2003 on strengthening the capacities of Guatemalan State institutions and civil society organizations to advance the reform and legislative agenda derived from the peace accords. In general, I have been encouraged by the renewed enthusiasm and commitment of the Guatemalan counterparts of MINUGUA throughout the country, as they assume the challenges of the peace process in its next phase. Future technical assistance, especially in the country's interior, will be crucial in order to further strengthen their skills and consolidate their participation.

36. Special attention has been given to the Office of the Human Rights Ombudsman, which will assume greater monitoring responsibilities at the end of the MINUGUA mandate. I call on the Government of Guatemala to provide the Ombudsman with the additional resources needed to fulfil his obligations and also encourage Member States to intensify their support.

37. In view of the remaining challenges for the peace process [illegible] out in the present report and in my verification report (A/58/267), in particular the importance of working with new Government authorities to ensure their commitment to the peace agreements, I recommend that the General Assembly authorize the renewal of the MINUGUA mandate from 1 January to 31 December 2004. To realize the work derived therefrom, I call on the Member States to allocate the necessary resources. During the mandate period, I shall continue to report to the Assembly on Guatemala's compliance with the peace agreements and further progress on the Mission's phase-out process, and identify actions that should be taken by the international community to ensure future progress on the peace agenda and the consolidation of the advances already achieved.